

### **REMARKS**

This Amendment is filed in response to the Office Action dated September 11, 2007. In response to the Office Action, Applicants have cancelled claim 1 and rewrote claims 6, 7, and 9-13 in independent form. Applicants have not added any new matter to the claims in these amendments. All amendments were made merely to place previous dependent claims in independent form. These amendments were not made to limit these claims. The prior art simply fails to teach or suggest recited elements of these dependent claims, and therefore they have been placed in independent form. Applicants respectfully request reconsideration and allowance of the claims in light of the following remarks.

#### **I. Summary of Rejections**

The Office Action rejects pending claims 1-13 as obvious in light of U.S. Patent No. 7,062,722 to Carlin. The Office Action does not address each claim individually in explaining the rejection. The Office Action appears to only apply the reference to the recitations of claims 1-4. There is no specific discussion of application of the reference to claims 5-13.

#### **II. The Amended Claims Are Patentable**

Applicants have cancelled claim 1 and placed claims 6, 7, and 9-13 in independent form. Each of these independent claims recites elements not taught or suggested by the '722 Carlin reference. Each claim is discussed in turn below.

##### **a. Independent Claim 6**

Independent claim 6 recites, among other things, that the processing element is capable of receiving data representing at least one customer preference and filtering a first set of purchasable items based on the customer preference to generate a second set of purchasable items. Applicants found no teaching or suggestion of this recitation in the '722 Carlin reference. At best, the '722 Carlin reference discloses allowing a user to select an item from a list for

display in a displayed picture. Nowhere does it mention configuring the list of selectable items for display based on a customer preference as recited in claim 6.

**b. Independent Claim 7**

Independent claim 7 recites, among other things, that the processing element is capable of proposing a first set of purchasable items to a customer for selection, receiving a selection of a purchasable item from the first set by the customer, and proposing a second set of purchasable items to the customer for selection based on the purchasable item selected by the customer from the first set. Applicants found no teaching or suggestion of this recitation in the '722 Carlin reference. At best, the '722 Carlin reference discloses allowing a user to select an item from a list for display in a displayed picture. Nowhere does it mention providing a second set of purchasable items to a customer based on a selection of a purchasable item by a customer from a first set as recited in claim 7.

**c. Independent Claim 9**

Independent claim 9 recites, among other things, that the processing element is capable of soliciting from a customer specifications for the at least one configurable purchasable item selected by the customer and communicating data representing the specifications for the at least one configurable purchasable item selected by the customer to a vendor. Applicants found no teaching or suggestion of this recitation in the '722 Carlin reference. The '722 Carlin reference nowhere teaches or suggests receiving specifications from a customer about an item to be purchased. While the '722 Carlin reference does disclose determination of the size of a room to be mapped and viewed, it nowhere discloses receiving information about the specifications of an item selected for purchase by the customer as recited in claim 9.

**d. Independent Claim 10**

Independent claim 10 recites, among other things, that the processing element is capable of proposing a plurality of configurable purchasable items to the customer for selection,

receiving a selection of a configurable purchasable item from the customer, and scheduling an appointment for the customer with an in-store customer representative relating to the at least one configurable purchasable item selected by the customer. While the '722 Carlin reference discloses ordering of a customer selected item, it nowhere teaches or suggests scheduling of an appointment with a customer representative.

**e. Independent Claim 11**

Independent claim 11 recites, among other things, that the processing element is capable of scheduling at least one of the delivery of, installation of and on-site measurement for the at least one purchasable item selected by the customer. While the '722 Carlin reference discloses ordering of a customer selected item from a vendor, it nowhere teaches or suggests scheduling delivery, installation or on-site measurement.

**f. Independent Claim 12**

Independent claim 12 recites, among other things, that the processing element is capable of prompting a customer representative to contact the customer based at least in part upon the data received representing the at least one purchasable item selected by the customer. While the '722 Carlin reference discloses ordering of a customer selected item from a vendor, it nowhere teaches or suggests prompting a customer representative to contact a customer.

**g. Independent Claim 13**

Independent claim 13 recites, among other things, that the processing element is capable of proposing a plurality of purchasable items to a plurality of customers for selection by the customers, receiving and storing data representing at least one purchasable item selected by each customer and data representing at least one sales variable for each customer, and comparing the at least one sales variable for at least two customers. While the '722 Carlin reference briefly mentions gathering statistical data on customers, it nowhere teaches or suggests the recitations of claim 12 regarding comparison of sales variables from two different customers.

In light of above, the '722 Carlin reference fails to teach or suggests recited elements in each of claims 6, 7, and 9-13. Applicants thus respectfully submit that these claims are patentable over the cited references.

### **III. Finality of the Next Action Is Not Permissible**

Applicants note that the Office Action does not specifically reject claims 6, 7, and 9-13. Indeed, although the Summary of the Office Action indicates that claims 6, 7, and 9-14 stand rejected, the Office Action omits any explanation of how any cited art anticipates or renders obvious these claims. Applicant respectfully submits that this omission amounts to a failure to articulate a prima facie case of unpatentability and the burden to rebut this "rejection" has not yet shifted to Applicants. Consequently, a next Office action rejecting claims 6, 7, and 9-14 cannot properly be made final, since only then would the Applicant be obligated to rebut the rejection, presuming that such an Office action sets forth a prima facie case. (See MPEP § 706.07(a)).

Further, Applicants note that amendments made to the claims herein should not necessitate new grounds of rejection, as the amendments were made to merely place previous dependent claims in independent form. As the Examiner is required to examine all pending claims, Applicant assumes that claims 6, 7, and 9-14 were examined in the previous action. Mere placement of these claims in independent form does not alter the scope of such claims.

### **Conclusion**

In view of the amended claims and the remarks presented above, it is respectfully submitted that all of the present claims of the application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

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therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365.

Respectfully submitted,



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